

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U904 G) For Authority to Revise its Rates Effective January 1, 2005, in its Biennial Cost Allocation Proceeding.

Application 03-09-008
(Filed September 3, 2003)

In the Matter of the Application of San Diego Gas & Electric Company (U904 G) For Authority to Revise its Rates Effective January 1, 2005, in its Biennial Cost Allocation Proceeding.

Application 03-09-031
(Filed September 17, 2003)

ADMINISTRATIVE LAW JUDGE’S PRELIMINARY RULING ON TURN NOI

On December 5, 2003, The Utility Reform Network (TURN) filed and served a Notice of Intent to Claim Compensation (NOI) in this consolidated proceeding. No responses have been received. This Ruling, after consultation with the Assigned Commissioner, is the “preliminary ruling addressing whether the customer [TURN] will be eligible for an award of compensation.”

(§ 1804(b)(1).)¹

TURN has a long history of being recognized and awarded compensation as a customer in many Commission proceedings. No facts are presented here, or otherwise known, that would lead to a different conclusion.

TURN is a non-profit consumer advocacy organization representing the interests of residential and small commercial customers. TURN is a “group or

¹ All code references are to the Public Utilities Code unless otherwise noted.

organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential ratepayers” (*i.e.*, a Category 3 customer). (See § 1802(b); also see Decision (D.) 98-04-059, 79 CPUC2d 628, 676, Conclusion of Law 3). TURN states that a copy of the relevant portions of its articles of incorporation was submitted in Application (A.) 98-02-017, and again in A.99-12-024, and that its articles of incorporation have not changed since the time of those submissions. TURN reports that it has approximately 30,000 dues-paying members, the vast majority of whom TURN believes are residential ratepayers, but TURN does not poll its members to determine the precise percentage breakdown between residential and small business customers.

TURN characterizes a biennial cost allocation proceeding (BCAP) as a forum for litigating cost allocation among customer classes. TURN says it expects to be an active party in this proceeding, and intends to conduct discovery, file testimony, participate in hearings and file all necessary pleadings.

TURN estimates it will later request compensation of \$155,750 for the following expenses:

Attorney/Category	Estimated Hours	Hourly Rate	Estimated Cost
Marcel Hawiger	380	\$220	\$83,600
Michel Florio	90	\$385	\$34,650
Consultant Expenses for JBS Energy			\$30,000
Other Direct Expenses			\$7,500
TOTAL			\$155,750.00

TURN states that this estimate includes costs and expenses incurred in proceeding A.01-09-024, for which TURN intends to seek compensation in this proceeding. According to TURN, A.01-09-024 was the original BCAP

application, and was dismissed by the Commission without prejudice in D. 03-05-050. TURN also states that the reasonableness of the hourly rates will be addressed in TURN's subsequent request for compensation.

TURN recently obtained a finding of significant financial hardship. (Ruling dated March 25, 2003, in Rulemaking 02-07-050.) A finding of significant financial hardship creates a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding. (§ 1804(b)(1).) This proceeding commenced on September 3, 2003, within one year of March 25, 2003.

TURN points out that TURN and the Office of Ratepayer Advocates (ORA) both represent the ratepayer interests, but that "TURN only represents the interests of core customers." (NOI, page 4.) TURN says it will coordinate as much as possible with ORA to avoid unnecessary duplication of effort. As a result, TURN represents interests that, if not for the availability of intervenor compensation, would be underrepresented.

IT IS RULED that:

1. The Utility Reform Network (TURN) is a customer for the purposes of intervenor compensation (Category 3).
2. TURN satisfactorily states the nature and extent of its planned participation as far as it is possible to know as of the filing of its Notice of Intent.
3. TURN presents a satisfactory itemization of its estimate of the compensation it expects to request. The reasonableness of requested amounts, including the hourly rates, shall be addressed in TURN's later request for compensation.

4. TURN has established by un rebutted presumption that its participation without an award of intervenor compensation would pose a significant financial hardship.

5. TURN represents interests that, if not for the availability of intervenor compensation, would be underrepresented.

6. TURN is eligible for an award of intervenor compensation. The exact amount of the award, if any, shall be determined based on the reasonableness of TURN's request for an award, and this ruling "in no way ensures compensation." (§ 1804(b)(2).) The Commission may audit the records and books of TURN to the extent necessary to verify the basis of the award. (§ 1804(d).)

Dated December 23, 2003, at San Francisco, California.

/s/ BURTON W. MATTSON

Burton W. Mattson
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Preliminary Ruling on Turn NOI on all parties of record in this proceeding or their attorneys of record.

Dated December 23, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN
Helen Friedman

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.